

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JILL CLARK, on behalf of herself and
others similarly situated,

Plaintiff,

v.

SAMSUNG ELECTRONICS
AMERICA, INC.,

Defendant.

Civil Action No. 2:20-cv-12969
(WJM) (MF)

**MOTION RETURN DATE: JANUARY
4, 2021**

ORAL ARGUMENT REQUESTED

**DEFENDANT'S MEMORANDUM OF LAW IN SUPPORT OF MOTION
TO DISMISS**

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 B. The Court Lacks Federal Jurisdiction Over Plaintiff’s Complaint. 8

 1. Plaintiff has not alleged a factual basis for and cannot prove that the elements of CAFA jurisdiction are satisfied. 9

 2. Plaintiff cannot meet the MMWA’s amount-in-controversy requirement. 13

 C. Plaintiff’s Complaint Fails To State A Plausible Claim For Relief. 16

 1. The MMWA claim fails because Plaintiff has not identified any written affirmation that qualifies as a warranty under the statute. 16

 2. Plaintiff fails to state a common law or NJCFA fraud claim because she does not meet the heightened pleading standard under Rule 9(b). 21

 a. Plaintiff fails to state a claim for fraud or violation of the NJCFA based on an affirmative misrepresentation. 23

 b. Plaintiff fails to plead a claim for fraud based on omission because she does not allege facts that give rise to any duty to disclose. 26

 3. Plaintiff’s unjust enrichment claim should be dismissed because there is no direct relationship between Plaintiff, an indirect

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